

The Honorable Ricardo S. Martinez

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff

v.

WESTCOTT FRANCIS-CURLEY,

Defendant.

NO. CR23-126RSM

**PROTECTIVE
ORDER**

This matter comes before the Court on a Stipulated Motion for Entry of a Protective Order. The Court GRANTS the motion and hereby enters the following order:

PROTECTIVE ORDER

1. Pursuant to Federal Rule of Criminal Procedure 16(d)(1), this Protective Order governs all discovery material in any format (written or electronic) that is produced by the United States in discovery in the above-captioned case.

2. The “Defense Team” shall be limited to attorneys of record for Defendant and any of the following people working on this matter under the supervision of the attorneys of record: attorneys, investigators, paralegals, law clerks, testifying and consulting computer forensic experts, legal assistants, and administrative staff and

1 contractors. For purposes of this Order, the “Defense Team” does not include Defendant.
2 Defendant’s attorneys shall inform any member of the Defense Team to whom disclosure
3 of discovery material is made of the existence and terms of this Protective Order.

4 3. Any discovery material produced by the government shall only be used for
5 the purpose of investigating and preparing a defense to the charges in this action, and not
6 for any literary, commercial, or other purpose. Members of the Defense Team may
7 review discovery material with witnesses for purposes of hearing or trial preparation.

8 4. Members of the Defense Team shall not provide copies of any discovery
9 material to any persons outside of the Defense Team other than the Defendant.

10 5. The discovery in this case is voluminous, and includes materials and
11 documents that may contain (a) personally identifiable information (PII), (b) sensitive
12 victim and witness information, and (c) victim fraud detection methods.

13 a. PII includes, but is not limited to, information such as such as
14 payment card numbers, cell phone IMEI numbers, Social Security
15 numbers, driver’s license numbers, dates of birth, addresses, email
16 addresses, mothers’ maiden names, passwords, financial lines of
17 credit numbers, bank account numbers, and personal identification
18 numbers.

19 b. Sensitive victim or witness information shall mean financial and
20 subscriber information for uncharged individuals.

21 c. Victim fraud detection methods shall mean the methods used by
22 victims to detect, monitor, prevent, and analyze acts of fraud and
23 abuse against them or other entities.

24 6. Redacting the discovery to fully delete the above material would be
25 technically difficult and extremely time-consuming, substantially delay the disclosure of
26 discovery, and frustrate the intent of the discovery process. Additionally, some of the
27 above material is relevant to the charges and issues in this case so cannot be redacted.

1 7. Discovery material designated by the government as “Protected Material”
2 may only be possessed by the Defense Team. The “Protected Material” designation shall
3 only be used to limit the distribution of discovery containing PII, sensitive victim and
4 witness information, or victim fraud detection methods. The Defense Team may not
5 provide copies of Protected Material to any other person, including Defendant. This order
6 does not prohibit the Defense Team from discussing or reviewing Protected Material with
7 Defendant or prospective witnesses.

8 8. The Defense may include and discuss discovery in any filing and at any
9 hearing in this action, as well as during trial. All “Protected Material” that is filed with
10 the Court in connection with any pretrial, trial, sentencing, or other proceedings, shall be
11 filed under seal and shall remain sealed until otherwise ordered by this Court, unless
12 otherwise agreed upon by the parties. The parties are required to comply in all respects
13 with the relevant local and federal rules of criminal procedure pertaining to the sealing of
14 court documents.

15 9. The government shall designate material as “Protected Material” by
16 stamping or otherwise designating the material as “Protected Material,” or by providing
17 the Defense Team with written identification of discovery materials that constitute
18 “Protected Material.” When possible, this written identification shall include the Bates
19 number or file name for any material being designated as “Protected Material.”

20 10. If the Defense Team disagrees with the designation of any material as
21 “Protected Material,” it shall notify the government in writing of the disagreement,
22 identify with particularity each document and file at issue, and state the basis for the
23 challenge.

24 11. The Defense Team, at any time after attempting to resolve the matter by
25 agreement with the government, may apply by motion to the Court for a ruling that
26 information designated as “Protected Material” is not entitled to protected treatment
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1 under this Order. Any such motion must identify with particularity each document and
2 file at issue, and state the basis for the challenge.

3 12. This Protective Order shall remain in effect upon conclusion of this action,
4 and any habeas proceeding filed within a year of the conclusion of this action, and any
5 appeal from either. The Defense Team may thereafter return to the government or
6 destroy, and certify the destruction of, all discovery material. In the event that the
7 Defense Team believes that it needs to maintain the discovery for a longer period, this
8 Protective Order shall remain in effect until the Defense Team returns, or destroys and
9 certifies the destruction of, the discovery. The Defense Team may provide discovery to
10 any attorney representing Defendant in a timely habeas action, provided that that attorney
11 first enters into a Protective Order substantially identical to this Protective Order.

12 13. This Protective Order may be modified, as necessary, by filing with the
13 Court a Stipulated Order Modifying the Protective Order, or by order of the Court.

14 14. Nothing in this Order should be construed as imposing any discovery
15 obligations on the government or Defendant that is different from those imposed by case
16 law, Rule 16 of the Federal Rules of Criminal Procedure, and the Local Criminal Rules.

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18 DATED this 25th day of October, 2023.

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21 RICARDO S. MARTINEZ
22 UNITED STATES DISTRICT JUDGE

23 Presented by:

24 s/ David T. Martin
25 Assistant United States Attorney
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